

REMARKS

The Board of Patent Appeals and Interferences issued a Decision on June 13, 2008 regarding the appeal of this matter. In the Board's Decision, the previous rejections of claims 1-40 were reversed, the rejection of claims 46-50 were affirmed, and a new ground of rejection was made against claim 1. The Applicant now files this Response and amends the claims as set out above. It is believed that the filing of this Response, which addresses the outstanding rejections of claims 1 and 46-50, shall serve to reopen prosecution of this application before the examiner.

Claim 1 stands rejected under 35 U.S.C. 102(a) as being anticipated by Reiger (US 6,202,348). Claim 1 has been amended to include the limitation of claim 4 for the purpose of expediting allowance of the application. However, the Applicant expressly disagrees with the rejection and reserves the right to pursue claims of similar scope in one or more related applications. Reconsideration and withdrawal of the rejection is requested.

Claims 2-3, 5-35 and 37-38 depend directly or indirectly from claim 1 and are asserted to be allowable for at least the same reasons as claim 1. Claim 4 has been cancelled. Claims 36, 39 and 40 have been amended to depend from new claim 70, discussed below.

Claims 41-45 were withdrawn following a previous restriction requirement. However, the Applicant now believes that claim 1, as amended, is allowable and claim 41 has been amended to include each of the limitations of claim 1. Therefore, the Applicant respectfully requests that the restriction requirement be withdrawn and claims 41-45 be rejoined and allowed.

Claims 46-50 stand rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds et al. (US 3,080,680). Claim 46 has been amended to depend from claim 1 and include the limitation of "wherein the porous fabric layer of the root-tip-trapping region extends beyond the layer of root-impenetrable material to form the porous air-root-pruning region." This limitation finds support in

the present specification at paragraph [0022]. Claims 47-50 depend directly or indirectly from claim 46. Reconsideration and withdrawal of the rejection is requested.

Claims 51-54 were withdrawn following a previous restriction requirement. However, the Applicant now believes that claim 1, as amended, is allowable and claim 51 has been amended to include each of the limitations of claim 1. Therefore, the Applicant respectfully requests that the restriction requirement be withdrawn and claims 51-54 be rejoined and allowed.

Claims 55-62 have been canceled.

Applicant has also submitted new claims 63-74. These claims are supported throughout the specification, specifically including the original claims and paragraph [0022]. For example, new independent claim 65 has the same scope as original claim 5. Similarly, new independent claim 70 has the same scope as original claim 8. Entry and consideration of these new claims is requested.

In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/WHIT/0002.A of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,

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